



LIBRARY OF CONGRESS

Copyright Office

37 CFR Part 201

[Docket No. RM 2011–7]

Notice of Public Hearings: Exemption to Prohibition on Circumvention of Copyright Protection Systems for Access Control Technologies

AGENCY: Copyright Office, Library of Congress.

ACTION: Notice of Public Hearings.

SUMMARY: The Copyright Office of the Library of Congress (“Office”) will be holding public hearings on the possible exemptions to the prohibition against circumvention of technological measures that control access to copyrighted works. In accordance with the Copyright Act, as amended by the Digital Millennium Copyright Act, the Office is conducting its triennial rulemaking proceeding to determine whether there are particular “classes of works” as to which users are, or are likely to be, adversely affected in their ability to make noninfringing uses if they are prohibited from circumventing such technological measures. The first day of hearings will be dedicated to demonstrations of technology relevant to the rulemaking proceeding..

DATES: The first public hearing, confined to demonstrations of technology, will be held in Washington DC on Friday, May 11, 2012 at 10:00 a.m. Public hearings will also be conducted in Los Angeles, California at 9:00 a.m. on Thursday, May 17, 2012 and Friday, May 18, 2012, and in Washington, DC at 9:00 a.m. on Thursday, May 31, 2012, Friday, June 1, 2012, and Monday, June 4 through Wednesday, June 6, 2012. Requests to testify must be received by 5:00 p.m. E.D.T. on Monday, April 2, 2012. *See the* **SUPPLEMENTARY**

INFORMATION below for more information on the hearing dates and for additional information on other requirements.

ADDRESSES: The Los Angeles hearings will be held in the Moot Courtroom (Room 1310) of the University of California, Los Angeles, School of Law, 405 Hilgard Avenue, Los Angeles, CA. The Washington, DC round of public hearings will be held in the Copyright Hearing Room, LM-408 of the James Madison Building of the Library of Congress, 101 Independence Ave. SE., Washington, DC. *See* **SUPPLEMENTARY INFORMATION** for additional address information and other requirements.

FOR FURTHER INFORMATION CONTACT: Ben Golant, Assistant General Counsel, Office of the General Counsel, Copyright GC/I&R, PO Box 70400, Washington, DC 20024-0400. Telephone (202) 707-8380; fax (202) 707-8366. Requests to testify may be submitted through the request form available at <http://www.copyright.gov/1201/hearing-request>.

SUPPLEMENTARY INFORMATION: On September 29, 2011, the Copyright Office published a Notice of Inquiry seeking comments in connection with its rulemaking pursuant to Section 1201(a)(1) of the Copyright Act, 17 U.S.C. 1201(a)(1), which provides that the Librarian of Congress may exempt certain classes of works from the prohibition against circumventing a technological measure that controls access to a copyrighted work. 76 FR 60398 (Sept. 29, 2011). On December 20, 2011, the Office published a Notice of Proposed Rulemaking listing the proposed exemptions and requesting responsive comments. 76 FR 78866 (Dec. 20, 2011). The classes of works proposed for exemption and the responsive comments and reply comments have have been posted on the Office's website, along with the other notices published in the current rulemaking proceeding and a more complete statement of the background and purpose of the rulemaking. *See* <http://www.copyright.gov/1201/>.

The Office will be conducting public hearings in Los Angeles, California and Washington, DC to hear testimony relating to the proposed exemptions in this rulemaking. Interested parties are invited to submit requests to testify at these hearings. The dates for the hearings in Los Angeles, CA are May 17, 2012 and May 18, 2012. The dates for the Washington, DC hearings are May 31, June 1, 2012, and June 4 through June 6, 2012. Depending on the number of requests to testify received by the Copyright Office, it may not be necessary to conduct hearings on all of the available days. Updated information on the times and dates of the hearings may be found at <http://www.copyright.gov/1201/>. The hearings will be organized by subject matter, and while the Copyright Office will attempt to accommodate preferences for particular dates, such accommodations may not be possible.

These hearings will be organized into separate sessions on each of the proposed classes of works. Witnesses testifying in support of and in opposition to each class will testify as part of the same panel. Testimony shall consist of presentations of facts and legal argument, followed by questions from Copyright Office staff.

In addition to the hearings described above, the Office will be conducting a special “Technology Hearing” to give proponents and opponents of proposed classes of works an opportunity to conduct demonstrations of various technologies pertinent to the merits of the proposals. This hearing will be primarily factual in nature. Witnesses wishing to present demonstrations are asked to do so at this hearing rather than at the other hearings, in order to permit the other hearings to proceed on schedule. Witnesses will be responsible for providing any hardware or software necessary to conduct a demonstration. This hearing shall take place on Friday, May 11, 2012 in Washington DC. The Office believes that conducting this hearing one week before the commencement of the other hearings will give Copyright Office staff and other witnesses an opportunity to take the technology demonstrations into account at the later hearings. The Office is exploring the possibility of audiovisual streaming

of the Technology Hearing, at least to persons who will be witnesses at the later hearing and will be unable to attend the Technology Hearing. However, at this time the Office does not know whether that will be possible. Persons wishing to testify at the later hearings who wish to have access to such streaming if it is available should indicate their interest in their requests to testify.

All hearings will be open to the public, but seating will be limited. Witnesses and persons accompanying witnesses will be given priority in seating.

Requirements for persons desiring to testify: A request to testify must be submitted to the Copyright Office. All requests to testify must clearly identify:

- *For all hearings:*
 - the name of the person desiring to testify,
 - the organization or organizations represented, if any,
 - contact information (address, telephone, and email),
 - the class of work on which you wish to testify (if you wish to testify on more than one proposed class of work, please state your order of preference).
- *For the May 11 Technology Hearing:*
 - a description of the technology you intend to demonstrate,
 - identification of the proposed class(es) of works to which the technology is relevant,
 - identification of any technical requirements (including hardware and software) for the demonstration,
 - an estimate of the length of time of the demonstration.
- *For the May 17-18 and May 31-June 6 hearings:*

- a brief summary of your proposed testimony,
- a description of any audiovisual material or demonstrative evidence, if any, that you intend to present,¹
- a description of any material you intend to distribute, if any, at the hearing,
- the location of the hearing at which you wish to testify (Washington, DC or Los Angeles, CA),
- dates on which you wish to testify in order of preference.
- whether you wish to be given remote access to the May 11 Technology Hearing (if available),

Note: Because the agenda will be organized based on subject matter, the Office cannot guarantee that it can accommodate requests to testify on particular dates (apart from the Technology Hearing). Depending on the number and nature of the requests to testify, it is possible that the Office will not be able to accommodate all requests to testify. All persons who submit a timely request to testify will receive confirmation by email or telephone. The Office will notify all witnesses of the date and expected time of their appearance, and the time allocated for their testimony.

Addresses for requests to testify: Requests to testify must be submitted via the Office's website form located at <http://www.copyright.gov/1201/> and must be received by 5:00 p.m. E.D.T. on Monday, April 2, 2012. Persons who are unable to send requests via the website should contact Ben Golant, Assistant General Counsel, Office of the General

¹ As noted above, demonstrations of technology should be presented at the May 11 hearing. Any witness wishing to present audiovisual material or demonstrative evidence at the later hearings must request permission to do so in their requests to testify and explain why it is more appropriate to present that material at the later hearings than to do so at the May 11 hearing. The Office will carefully scrutinize such requests.

Counsel at (202) 707–8380 to make alternative arrangements for submission of their requests to testify.

Form and limits on testimony at public hearings: There will be time limits on the testimony allowed for persons testifying that will be established after receiving all requests to testify. In order to avoid duplicative and cumulative testimony and to ensure that all relevant issues and viewpoints are addressed, the Office encourages parties with similar interests to select common representatives to testify on behalf of a particular position. A timely request to testify does not guarantee an opportunity to testify at these hearings. The Office stresses that factual arguments are at least as important as legal arguments. The hearings provide an opportunity to explain and, in some cases, demonstrate the factual basis of an argument. The Office encourages persons who wish to testify to provide demonstrations of particular problems or solutions as supplements to testimony. While testimony from attorneys who can articulate legal arguments in support of or in opposition to a proposed exempted class of works is useful, testimony from witnesses who can explain and demonstrate pertinent facts is strongly encouraged by the Office.

If audiovisual demonstrations or handouts will be used at any hearing, the Office requires submission of such materials to the Copyright Office 7 days prior to the hearing in order to make this information available to the other witnesses on the same panel. For the Technology Hearing, if a demonstration will consist of proprietary hardware or software, witnesses may need to provide representative handouts to be distributed to other witnesses prior to the hearing. Witnesses should assume that they will have to provide whatever electronic or audiovisual equipment is necessary for their presentations, although in particular cases the Office may be able to provide basic equipment (*e.g.*, a personal computer and a large monitor) or software. Persons intending to bring such equipment into the Library of

Congress, *e.g.*, laptops, slide projectors, etc., are encouraged to give the Office advance notice and to arrive early in order to clear security screening by the Library police.

The Office intends to organize individual sessions of the hearings around particular or related classes of works proposed for exemption. If a request to testify involves more than one proposed exemption or related exemption, please specify, in order of preference, the proposed exemptions on which you would prefer to testify. Following receipt of the requests to testify, the Office will prepare an agenda of the hearings which will be posted at:

<http://www.copyright.gov/1201/>. The Office will also provide additional information on directions and parking for all persons testifying at the Los Angeles, CA round of hearings. To facilitate this process, it is essential that all of the required information listed above be included in a request to testify.

Dated: March 12, 2012

Maria A. Pallante
Register of Copyrights.

[BILLING CODE: 1410–30–P]

[FR Doc. 2012-6333 Filed 03/14/2012 at 8:45 am; Publication Date: 03/15/2012]